

House Study Bill 124 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
INFORMATION TECHNOLOGY BILL
BY CHAIRPERSON LOHSE)

A BILL FOR

- 1 An Act permitting optical fiber additions on certain easements,
- 2 providing remedies, and including retroactive applicability
- 3 provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 564.9 Optical fiber additions —
2 remedies.

3 1. *a.* The holder of an easement permitting the holder to
4 maintain or operate an electric distribution system may attach
5 optical fiber, together with all associated equipment for the
6 distribution of communications and information services by
7 optical fiber, to an existing electric distribution system
8 pursuant to the existing easement. An easement holder shall
9 not be required to acquire or purchase an additional easement
10 or license to attach optical fiber to an existing electric
11 distribution system pursuant to an existing easement, provided
12 that no additional poles or structures are installed solely
13 because of the optical fiber addition.

14 *b.* For purposes of this section, "*electric distribution*
15 *system*" means the same as defined in section 476.58.

16 2. Notwithstanding subsection 1, the owner of real property
17 on which an easement holder attaches optical fiber to an
18 existing electric distribution system pursuant to an existing
19 easement shall have a cause of action against the easement
20 holder to recover damages for any of the following:

21 *a.* Actual damages caused by the optical fiber addition.

22 *b.* The diminution in value of the real property caused by
23 the optical fiber addition, taking into account any increase in
24 value of the real property due to such addition.

25 3. An action to recover damages pursuant to subsection
26 2 shall be brought in the district court for the county in
27 which the real property is located. No such action shall
28 be brought after the expiration of one year following the
29 date on which the easement holder attaches optical fiber
30 pursuant to subsection 1, provided, however, that an action to
31 recover damages for optical fiber attached on or before the
32 effective date of this Act shall be brought within one year
33 after the effective date of this Act. This section shall be
34 the exclusive remedy for the recovery of damages pursuant to
35 subsection 2.

1 Sec. 2. RETROACTIVE APPLICABILITY. This Act applies
2 retroactively to optical fiber additions made on or before the
3 effective date of this Act.

4 EXPLANATION

5 The inclusion of this explanation does not constitute agreement with
6 the explanation's substance by the members of the general assembly.

7 This bill relates to optical fiber additions on certain
8 easements.

9 The bill allows the holder of an easement permitting the
10 holder to operate or maintain an electric distribution system,
11 as defined in the bill, to attach optical fiber, including all
12 associated equipment, to an existing electric distribution
13 system pursuant to the existing easement. An easement holder
14 is not required to obtain an additional easement or license
15 to attach optical fiber to an existing electric distribution
16 system pursuant to an existing easement, provided no additional
17 poles or structures are installed solely because of the optical
18 fiber addition.

19 The bill authorizes the owner of real property on which an
20 easement holder attaches optical fiber on an existing electric
21 distribution system pursuant to an existing agreement to
22 recover damages against the easement holder for any actual
23 damages caused by the optical fiber addition and any diminution
24 in value of the real property caused by the optical fiber
25 addition, taking into account any increase in value of the real
26 property due to the addition. An action to recover damages
27 shall be brought in the district court for the county in which
28 the real property is located. An action to recover damages
29 must be brought within one year after the easement holder
30 attaches the optical fiber, provided, however, that an action
31 to recover damages for optical fiber attached on or before the
32 effective date of the bill must be brought within one year
33 after the bill takes effect. The bill is the exclusive remedy
34 to recover damages due to an optical fiber addition.

35 The bill applies retroactively to optical fiber additions

H.F. _____

1 made on or before the effective date of the bill.